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88-466

Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL, JR.
CLERK

No._____

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1988

John S. Trinsey, Jr.

Petitioner,

vs.

State Ethics Commission,
Commonwealth of Pennsylvania, and
Montgomery County Board of Elections

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

John S. Trinsey, Jr. Pro Se
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Royersford, Pennsylvania 19468
(office and mail address)
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QUESTIONS PRESENTED

1. Can the State Ethics Commission, a branch of the Commonwealth of Pennsylvania, unlawfully rig a municipal election in the Commonwealth, whereby said rigging denied a citizen of the Commonwealth, who is also a citizen of the United States, a free democratic election of public officials and thereafter can said Commission avoid redress in the Federal Court by protection of the sovereign immunity provisions of the Eleventh Amendment of the Constitution of the United States?

2. Which right under law is more prevailing:

a) The fundamental principle of sovereign immunity of the State under the Eleventh Amendment, or

b) A citizen's fundamental right to vote in a free democratic municipal election?

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I. THE FUNDAMENTAL RIGHT TO VOTE IN A FREE DEMOCRATIC MUNICIPAL ELECTION UNTAINTED BY THE RIGGING OF THAT ELECTION IS A MORE IMPORTANT RIGHT THAN THE RIGHT OF SOVEREIGN IMMUNITY OF THE STATE UNDER THE ELEVENTH AMENDMENT.	9
II. THIS COURT SHOULD GRANT CERTIORARI TO DETERMINE THAT ID PETITIONER'S RIGHT TO VOTE IN SAID MUNICIPAL ELECTION WAS VIOLATED PETITIONER HAS A RIGHT TO REDRESS NOTWITHSTANDING THE ELEVENTH AMENDMENT.	9
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The petitioner, John S. Trinsey, Jr., respectfully prays that a Writ of Certiorari issue to review the Order of the United States Court of Appeals for the Third Circuit, entered in the above

entitled proceeding on June 17, 1988.

ORDER BELOW

The Order of the Court of Appeals for the Third Circuit is reprinted in Appendix A hereto and a reduced copy of subject Order is attached as Appendix B hereto.

JURISDICTION

Invoking federal jurisdiction under 42 U.S.C. 1983, 42 U.S.C. 1985 and 42 U.S.C. 1986, the petitioner brought this suit in the United States District Court Eastern District of Pennsylvania.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution; First, Fourth, Sixth, Eighth, Thirteenth and

Fourteenth Amendments thereof.

LIST OF PARTIES INVOLVED

The parties to the proceedings below were the petitioner, John S. Trinsey. Jr., Respondents State Ethics Commission, Commonwealth of Pennsylvania, and, Montgomery County Board of Elections.

STATEMENT OF THE CASE

Petitioner, not an attorney, acting Pro Se, instituted this action pursuant to 42 U.S.C. 1983, 1985 and 1986.

Petitioner alleged in the Court below that the State Ethics Commission, Commonwealth of Pennsylvania (hereinafter "Commission") unlawfully rigged a Spring Primary Election of public offices ("Superiors") and therefore the General

Election of Supervisors in Upper Merion Township, Montgomery County, Pennsylvania, in 1987.

As a result of the alleged Commission rigging of the subject election Petitioner complained to the Court below that his constitutional right to vote in a free, democratic election of public officials was denied and therefore Petitioner sought redress in the Court below.

The Court below held that because of the Eleventh Amendment, the State's sovereign immunity provisions thereof bars a citizen from bringing suit against the citizen's own state in Federal Court, and thereupon dismissed the appeal for want of jurisdiction.

Petitioner holds that his right to

vote is fundamental and preservative of all rights, and outweighs the State's rights to sovereign immunity, and therefore the Court must have jurisdiction of his complaint to determine, if, in fact, Petitioner was denied a free and democratic election, and if so found, provide the Petitioner with an opportunity to seek redress.

A summary of petitioners case is that the Commission put an onus of guilt on an incumbent supervisor for actions in 1984 and dragging it's feet in rendering a decision until after the 1987 Primary Election in which the incumbent supervisor sought re-election.

The supervisor was unable to publickly defend himself from the

allegations during the Commission's investigation, under penalty of fine and imprisonment.

The Commission, however, leaked onus of guilt concepts to the press and opposition that were so damaging that the incumbent supervisor lost the primary to the opposition who capitalized on the onus of guilt.

Finally, after the spring primary in late summer of 1987 the Commission released it's decision which Petitioner then realized was a baseless decision, a sham, a hoax, an abuse of prosecutorial discretion in it's worst form.

Petitioner then realized that he was denied a free democratic election and sought redress in the Court below.

Petitioner, a former Olympic Oarsman

(1948 London Olympics) since 1963 has dedicated his life to sponsoring the amateur sport of rowing in Upper Merion Township, founding a boathouse and starting high school and club and individual rowing programs.

Petitioner also was an All-American finalist in the 1949 Diamond Sculls, Henley Royal Regatta, Henley-on-Thames, England with the late Jack Kelly, brother of the late Princess Grace, and was attempting to establish a Henley type regatta in Upper Merion Township. Petitioner in 1984, as a community service, wrote a letter to the Supervisors of the Township inviting them and their families to attend the 1984 Henley Royal Regatta at Petitioner's expense, as Petitioner was a well known developer/builder in the community.

A public hearing was held on the matter and after no complaints were registered, two supervisors accepted the invitation, one supervisor being subject to re-election in 1977.

In addition to the two supervisors a group of fifteen township residents accepted the invitation.

The trip was a success and a Henley type regatta has been established in the Upper Merion community with this year being the fifth annual Upper Merion Regatta, featuring Soviet high school crews competing against Upper Merion Area High School crews on May 29, 1988.

One of the persons attending the public hearings as aforementioned never objected at the subject public meeting to

the trip but at the end of 1984 or early 1985 filed a complaint to the Commission.

Petitioner contends that a conspiracy then evolved whereby the Commission agreed to and did rig the election as set forth herein.

REASONS FOR GRANTING WRIT

IF PETITIONER'S ALLEGATIONS OF THE COMMISSIONS RIGGING THE ELECTION ARE TRUE, A TERRIBLE INJUSTICE HAS OCCURRED IN THAT PETITIONER'S RIGHT TO VOTE IN A FREE AND DEMOCRATIC MUNICIPAL ELECTION HAS UNLAWFULLY BEEN DENIED, AND TO PROTECT PETITIONERS RIGHT TO REDRESS NECESSITATES A GRANT A CERTIORARI.

This court in Harper v. Virginia Board of Elections, 383 U.S. 663 (1966) held that the right to vote was fundamental because it was "preservative of all rights".

Clearly the right to vote in a free and democratic election is more important to Petitioner as well as to all Americans than the State's sovereign immunity under

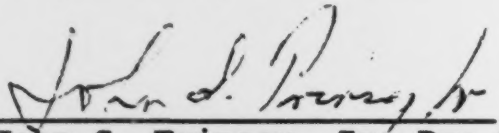
the Eleventh Amendment.

When it comes to Petitioner's right to vote, the First, Fourth, Sixth, Eighth, Thirteenth and Fourteenth Amendments to the United States Constitution outweigh the states soveriegn immunity right under the Eleventh Amendment.

CONCLUSION

For these various reasons, the Petition for Certiorari should be granted; it is urged that this Honorable Court grant summary reversal and remand the case to the Lower Court for full hearing on the Petitioners Complaint.

Respectfully Submitted



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APPENDIX A

BPS-165 June 9, 1988

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

C.A. No. 88-137

JOHN S. TRINSEY, JR.

vs.

STATE ETHICS COMMISSION, etc., et al.

(E.D. Pa Civ. No. 87-6975)

Present: GIBBONS, CHIEF JUDGE; STAPLETON and WEIS, CIRCUIT JUDGES

Submitted by the Clerk for possible dismissal due to a jurisdictional dismissal. In the above-captioned case.

Respectfully,

Clerk

SM/DS/sb
enc.

The foregoing Appeal is dismissed for want of jurisdiciton.

By the Court

S/ Walter K. Stapleton
Circuit Judge

Dated: June 17, 1988

APPENDIX B

BPS-165 June 9, 1988

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 88-1157

JOHN S. TRINSEY, JR.

vs.

STATE ETHICS COMMISSION, etc., et al.

(E.D. Pa. Civ. No. 87-6975)

Present: GIBBONS, CHIEF JUDGE; STAPLETON and WEIS, CIRCUIT JUDGES

Submitted by the Clerk for possible dismissal due to a jurisdictional dismissal

in the above-captioned case.

Respectfully,

Sally Mann 6/8

Clerk

SM/DS/sb
enc.

The foregoing ~~Motion~~ appeal is dismissed for want of jurisdiction

By the Court,

Walter K. Stapleton
Circuit Judge

Dated: JUN 17 1988

ccl/cc: JLT
LF
ETC
STC